

CHAPTER NO. 157

SENATE BILL NO. 1241

By Cooper

Substituted for: House Bill No. 1302

By Fitzhugh

AN ACT To amend Tennessee Code Annotated, Section 66-29-113; Section 66-29-115 and Section 66-29-136, relative to the Uniform Disposition of Unclaimed Property Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-29-113(e), is amended by deleting from the first sentence thereof the words and figures "Not more than one hundred twenty (120) days" and by substituting instead the words and figures "Not more than one hundred twenty (120) days or less than sixty (60) days".

SECTION 2. Tennessee Code Annotated, Section 66-29-113(g), is amended by inserting the word "final" immediately after the word "all" and immediately before the word "reports".

SECTION 3. Tennessee Code Annotated, Section 66-29-113, is amended by adding the following as a new subsection (c) and by redesignating the subsequent subsections accordingly:

(c) Notwithstanding any provision of this part to the contrary, holders shall report to the treasurer the following types of property separately from any other type property reportable under this part:

(1) Contents removed from any safe deposit box or any other safekeeping repository or agency or collateral deposit box described in § 66-29-104(4)(B); and

(2) If required by rule and regulation promulgated pursuant to § 66-29-115(d), securities or security entitlements under Title 47, Chapter 8.

The treasurer may create separate and distinct unclaimed property report forms for the reporting of such property. The report forms shall elicit such information as the treasurer deems appropriate.

SECTION 4. Tennessee Code Annotated, Section 66-29-115(a), is amended by deleting from the first sentence thereof the words "Every person filing a report under" and by substituting instead the words "Except as other provided in this section, every person filing a report under".

SECTION 5. Tennessee Code Annotated, Section 66-29-115, is amended by adding the following as a new subsection (d) and by redesignating the existing subsections accordingly:

(d) Notwithstanding anything in this section to the contrary, the state treasurer may, by rule and regulation, require that a security or security entitlement under Title 47, Chapter 8 not be delivered to the state treasurer at the time of filing the report. If the treasurer promulgates such a rule, the state treasurer shall publish the names and last known addresses of the apparent owners of such property pursuant to § 66-29-114 and the holder thereof shall retain the property until claimed by the owner or sold in accordance with this subsection. If the security or security entitlement has not been claimed within the calendar year next following the filing of the report with the state treasurer, then the holder may, as soon thereafter as practical, sell the property in conformity with reasonable commercial practices for the type security involved. The monetary proceeds resulting from any sale conducted pursuant to this subsection, after deducting a proportionate share of the expense of conducting the sale, shall be delivered to the state treasurer within sixty (60) calendar days of the sale along with an updated report. The updated report shall be in such format as prescribed by the treasurer and shall contain all information provided in the initial report. The report shall further contain the following information for each security or security entitlement described in the initial report:

(1) A statement as to whether the security or security entitlement was returned to the owner or sold; and

(2) The net amount realized from the sale of that security or security entitlement.

An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this subsection shall not be liable to the apparent owner and shall be indemnified against claims of any person in accordance with § 66-29-116.

SECTION 6. Tennessee Code Annotated, Section 66-29-136, is amended by deleting the first sentence thereof in its entirety and by substituting instead the following:

Unpaid wages, commissions, expense payments, fees for professional services and other amounts paid for personal services that are includable as gross income under the federal Internal Revenue Code, including any such payments represented by unrepresented items, owing in the ordinary course of the holder's business, which remain unclaimed by the owner for more than one (1) year after becoming payable are presumed abandoned.

SECTION 7. Tennessee Code Annotated, Section 66-29-115, is amended by adding the following language as a new, appropriately designated subsection:

(e)(1) Notwithstanding the provisions of this part, United States savings bonds which are unclaimed and presumptively abandoned under the provisions of this part shall escheat to the State of Tennessee at the time of the presumed abandonment, and all property rights to such United States savings bonds or proceeds from such bonds shall thereupon vest solely in the State of Tennessee.

(2) Within one hundred eighty (180) days after the bonds and obligations thereunder have been reported by a holder pursuant to § 66-29-113, if no claim has been filed in accordance with the provisions of this part for such United

States bonds and obligations, the treasurer shall commence a civil action in the chancery court of Davidson County for a determination that such United States savings bonds shall escheat to the state. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(3) The summons and complaint shall name the last known owner as the defendant, and shall be served and filed as provided by law. At the time of the filing of the summons and complaint, the treasurer shall mail to the last known address of the owner, a notice entitled "Notice of Proceedings to Confirm Certain United States Savings Bonds as Escheated to the State of Tennessee", which shall include the following information:

(A) The name and last known address of the owner, if previously reported;

(B) A statement identifying the action and stating that its purpose is to confirm escheat of the property to the state;

(C) The place, time and date of hearing; and

(D) A direction that any person claiming to be entitled to such United States savings bonds may claim the property before or at the hearing.

(4) At the time such action is commenced, the treasurer, as to all items having a value in excess of fifty dollars (\$50.00), shall also cause the foregoing notice to be published once each week for two successive weeks in a newspaper having general circulation in the county of the last known address of the owner according to the records on file with the treasurer. If no address is available, the notice shall be published in such time, place and manner as, in the treasurer's judgment, is most likely to come to the owner's attention.

(5) If no person shall file a claim or appear at the hearing to substantiate a claim, or if the court shall determine that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with this section, shall enter a judgment confirming that the subject United States savings bonds have escheated to the state.

(6) The treasurer shall redeem such United States savings bonds escheated to the state and the proceeds from such redemption shall be deposited in accordance with §66-29-121.

(7) Any person making a claim for the United States savings bonds escheated to the state under this subsection, or for the proceeds from such bonds, may file a claim in accordance with the provisions of §66-29-123. Upon receiving sufficient proof of the validity of such person's claim, the treasurer may pay such claim in accordance with §66-29-123.

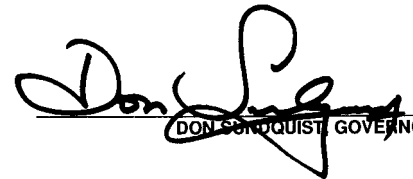
SECTION 8. For purposes of rulemaking, the provisions of Sections 1, 3, 4 and 5 of this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, Sections 1, 3, 4 and 5 of this act shall take effect on July 1, 2001 and shall cover all property reportable after said date, the public welfare requiring it. All other Sections of this act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 26, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 3rd day of May 2001


DON SUNDQUIST, GOVERNOR